

HOUSE BILL REPORT

E3SHB 2939

As Passed Legislature

Title: An act relating to creation of the energy freedom program.

Brief Description: Establishing the energy freedom program.

Sponsors: By House Committee on Capital Budget (originally sponsored by Representatives Grant, Dunshee, Linville, Kessler, Upthegrove, Kilmer, Ericks, Hasegawa, P. Sullivan, Santos, Green, Springer, Conway, Simpson and Hudgins).

Brief History:

Committee Activity:

Technology, Energy & Communications: 1/17/06, 1/26/06 [DPS];

Appropriations: 2/1/06, 2/4/06 [DP2S(w/o sub TEC)].

Capital Budget: 2/6/06, 2/7/06 [DP3S(w/o 2sub APP)].

Floor Activity:

Passed House: 2/11/06, 68-30.

Senate Amended.

Passed Senate: 3/2/06, 48-0.

House Concurred.

Passed House: 3/4/06, 66-29.

Passed Legislature.

Brief Summary of Engrossed Third Substitute Bill

- Establishes an Energy Freedom Program to be administered by the Department of Agriculture.
- Authorizes the Department of Agriculture to award financial assistance to political subdivisions, federally recognized tribes, or state institutions of higher education for projects that convert farm products or waste into electricity or fuel.
- Establishes the Energy Freedom Account within the State Treasury.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Morris, Chair; Kilmer, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks, Hankins, Hudgins, Nixon, P. Sullivan, Sump, Takko and Wallace.

Staff: Kara Durbin (786-7133).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Technology, Energy & Communications. Signed by 19 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Buri, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia, Schual-Berke, P. Sullivan and Walsh.

Minority Report: Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Chandler, Clements, Hinkle, Pearson, Priest and Talcott.

Staff: Owen Rowe (786-7391).

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass and do not pass the second substitute bill by Committee on Appropriations. Signed by 22 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Blake, Chase, Eickmeyer, Ericks, Flannigan, Green, Hasegawa, Kretz, Lantz, McCune, Moeller, Morrell, Newhouse, O'Brien, Schual-Berke, Springer, Strow and Upthegrove.

Minority Report: Do not pass. Signed by 6 members: Representatives Clements, Cox, Ericksen, Kristiansen, Roach and Serben.

Staff: Susan Howson (786-7142).

Background:

Oil Production and Consumption in the U.S.

According to the Energy Information Administration (EIA), in 2002, the United States consumed 19.656 million barrels of petroleum (crude oil and petroleum products) per day, or about one-quarter of total world oil production. More than half (62 percent) was imported oil. The EIA has projected that by 2025, total petroleum consumption in the U.S. will be approximately 28.3 million barrels per day.

While consumption of petroleum in the United States is increasing, oil production has been decreasing steadily since 1970. According to the EIA Annual Energy Outlook for 2004, U.S. petroleum production is expected to decrease slightly from 9.2 million barrels per day in 2002 to 8.6 million barrels per day by 2025, while consumption is expected to rise from 19.6 barrels per day in 2002 to 28.3 million per day by 2024, which represents approximately a 44 percent increase in consumption.

State Loan Programs for Renewable Energy

According to a 2002 study by the National Renewable Energy Laboratory, there are at least 21 active loan programs in 18 states that provide low-cost financing for renewable energy. Some programs are funded by revolving loan funds that were established with petroleum overcharge settlements, while others are funded through annual appropriations, the sale of bonds, or air-quality noncompliance penalty fees. Total funding for state loan programs range from \$200,000 to \$200 million per year.

Summary of Engrossed Third Substitute Bill:

Energy Freedom Program

The Energy Freedom Program is established within the Department of Agriculture (Department). The state legislative purpose of the Energy Freedom Program is to develop a viable bioenergy industry, to promote public research and development in bioenergy sources and markets, and to support a viable agriculture industry to grow bioenergy crops.

Criteria for Awarding Financial Assistance

The Department of Agriculture, in cooperation with the Department of Community, Trade, and Economic Development may award financial assistance if the Director of the Department of Agriculture finds that:

- the project will convert farm products or waste directly into electricity or fuel or other coproducts associated with such conversion;
- the project demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace;
- the facility will produce long-term economic benefits to the state;
- the project does not require continuing state support;
- the assistance will result in jobs or higher incomes for the citizens of the state;
- the state is provided an option to purchase a portion of the fuel or feedstock to be produced by the project;
- the project will increase energy independence or diversity;
- the project will use feedstocks produced in the state, if applicable;
- any product produced by the project will be suitable for its intended use, meet accepted national or state standards, and will be stored in a safe and environmentally sound manner; and
- the application provides for adequate financial reporting.

If the project is a research and development project, the application must be independently reviewed by a peer review committee and the findings of that review must be provided to the director of the Department.

Contractual Agreements

The director of the Department must enter into agreements with approved applicants. The agreement must include provisions to protect the state's investment, including a requirement that the applicant enter into contracts with any partners that may be involved in the use of the financial assistance provided under this program.

Limitations

The director may award assistance in an amount of up to \$5 million, provided that the assistance does not constitute more than 50 percent of the total project funding. The director may suspend or cancel its financial assistance if a recipient fails to make reasonable progress towards completing a project, or the recipient has made representations in any information furnished to the director in connection with the project.

Energy Freedom Account

The Energy Freedom Account (Account) is created in the State Treasury. Funds from the Account may only be spent after appropriation. Expenditures may be used only for assistance for projects that are consistent with this Act. Administrative costs may not exceed 3 percent of the total funds available for the Energy Freedom program.

Any funds remaining in the Account after June 30, 2016 will revert to the State General Fund.

Report

The director shall report to the Legislature and to the Governor on an annual basis on the status of the Energy Freedom Program.

Public Disclosure

Financial and commercial information supplied by applicants under this Act is exempt from public disclosure.

The Act expires on June 30, 2016.

Appropriation: None.

Fiscal Note: Requested on February 7, 2006.

Effective Date: The bill takes effect on July 1, 2006.

Testimony For: (Technology, Energy & Communications) The Energy Freedom Program is timely. Our state's energy supply is in flux; prices will only continue to go up. There needs to be research funds to explore alternative energy sources. We need to subsidize all forms of energy. These loan programs will encourage the development of these alternative energy industries in the state. All of these biofuel bills have common goals: energy independence; growing and diversifying a rural economy; keeping economic benefits in the state. This loan program will help fund the crushing infrastructure for biodiesel.

Testimony For: (Appropriations) Thanks to the sponsors of this bill for recognizing that the state needs to create a financial infrastructure for these bioenergy projects. We need the state to share the financial risk with producers to see the biomass industry through its infancy. Loans should be offered below prime interest rates. Producers can already access capital through the state's industrial revenue bond system at several points below the market rate. The program the state creates should parallel IRB rates. Loan eligibility should not hinge on a credit analysis of the participating producers. Most ventures include new entities without a credit history, and farmers typically have complex and unconventional financial arrangements they are not eager to explain to outsiders. The credit analysis component could cause worthy

applicants to pass on the state's program. The state already issues Industrial Revenue Bonds through the Washington Economic Development Finance Authority, but the capital is about \$10 million to \$25 million for exempt projects. This is too little for most commercial renewable energy projects. We propose the state hand its bonding capacity to government subdivisions so they could issue bonds in the \$25 to \$30 million range, to get to the level of financing that these projects need. The state can effectively lend capital to these projects without committing itself to large expenditures. These investments will take more commitment than conventional loan programs. The state should give loans at 3.5 to 4 percent and relax the terms and restrictions until they are inviting to farmers and other entrepreneurs. Plan on putting a mechanism into this program to allow the state to put its weight behind local economic development agencies. This bill is a powerful tool to help create strong public-private partnerships around the emerging biodiesel industry.

Testimony For: (Capital Budget) None.

Testimony Against: (Technology, Energy & Communications) None.

Testimony Against: (Appropriations) None.

Testimony Against: (Capital Budget) None.

Persons Testifying: (Technology, Energy & Communications) (In support) Representative Dunshee; Jim Armstrong, Spokane County Conservation District; John Plaza, Seattle Biofuels; Jay Gordon, Washington State Dairy Federation; and Dave Warren, Washington Public Utility Districts Association.

Persons Testifying: (Appropriations) (In support) Kevin Fullerton, Institute for Washington's Future; and Kevin Raymond, Washington Biodiesel.

Persons Testifying: (Capital Budget) None.

Persons Signed In To Testify But Not Testifying: (Technology, Energy & Communications) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.

Persons Signed In To Testify But Not Testifying: (Capital Budget) None.